

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

CYNTHIA JO GOODMAN )  
ESTATE, )  
Plaintiff, )  
v. )  
TERRANCE DOLAN, individually )  
and in his official capacity as CHIEF )  
FINANCIAL OFFICER of U.S. )  
BANK TRUST NATIONAL )  
ASSOCIATION and U.S. BANK )  
TRUST NATIONAL )  
ASSOCIATION, NOT IN ITS )  
INDIVIDUAL CAPACITY BUT )  
SOLELY AS OWNER TRUSTEE )  
FOR RCF 2 ACQUISITION TRUST, )  
Defendants. )  
Civil Action No. \_\_\_\_\_

## NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Terrance Dolan (“Dolan”) and U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for RCF 2 Acquisition Trust (“U.S. Bank Trust”), appearing specially so as to preserve any and all defenses available under Rule 12 of the Federal Rules of Civil Procedure, including the defenses of insufficiency of

service and lack of personal jurisdiction, hereby give notice of the removal of this action from the Superior Court of DeKalb County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division. As grounds for removal, Defendants state as follows:

### **PROCEDURAL BACKGROUND**

1. Plaintiff Cynthia Jo Goodman Estate (“Plaintiff”) commenced this action by filing her Complaint in the Superior Court of DeKalb County, Georgia, Case Number 23CV6292, on July 7, 2023. The Superior Court of DeKalb County is a court within this judicial district and division. True and correct copies of all process, pleadings, and orders in the Superior Court file are attached hereto as

### **Exhibit A.**

2. Defendants have yet to be properly served with a copy of the Summons and Complaint, and therefore, removal is timely under 28 U.S.C. § 1446.<sup>1</sup> *See Boyd v. Wells Fargo Fin. Bank, Inc.*, 756 F. App’x 954, 956 (11th Cir. 2018).

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<sup>1</sup> An affidavit of service filed in Superior Court indicates Plaintiff attempted to serve “Defendants” through “Corporation Service Company, 2 Sun Ct., Suite 400, Norcross, GA.” Exhibit A. But Corporation Service Company is not a registered agent authorized to accept service for either U.S. Bank Trust or Dolan. This service attempt therefore was legally insufficient.

3. A removal notice and a copy of the instant Notice of Removal shall be filed with the Clerk of the Superior Court of DeKalb County, Georgia, and shall be served on Plaintiff. *See* 28 U.S.C. § 1446(d).

### **DIVERSITY JURISDICTION**

4. This case is properly removable because this action is between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See* 28 U.S.C. §§ 1332(a), 1441(a).

#### **A. Diversity of Citizenship**

5. Plaintiff is a resident and citizen of Georgia. *See In re Goodman*, Bankruptcy Petition # 23-56247-jrs (N.D. Ga.); Exhibit C (DeKalb County Tax Assessment, listing homestead exemption).

6. Defendant U.S. Bank Trust is a national banking association with its main office in Delaware. U.S. Bank Trust therefore is a citizen of Delaware for diversity purposes. *See Wachovia Bank v. Schmidt*, 546 U.S. 303, 318, 126 S. Ct. 941, 952, 163 L. Ed. 2d 797 (2006).

7. Defendant Dolan is the chief financial officer of U.S. Bancorp, and is a resident and citizen of Minnesota.

8. Accordingly, complete diversity of citizenship exists between Plaintiff and Defendants.

**B. Amount in Controversy**

9. When a plaintiff seeks injunctive or declaratory relief, “it is well established that the amount in controversy is measured by the value of the object of the litigation.” *Hosseinzadeh v. Green Point Mortg. Funding, Inc.*, 577 F. App’x 925, 927 (11th Cir. 2014) (quoting *Ericsson GE Mobile Commc’ns, Inc. v. Motorola Commc’ns & Elecs., Inc.*, 120 F.3d 216, 218 (11th Cir. 1997)).

10. Here, in addition to unspecified money damages, Plaintiff seeks to stop the non-judicial foreclosure of the property located at 2948 Battle Forrest Drive, Decatur, Georgia 30034 (the “Property”), to order Defendants to discharge the debt secured by a Security Deed, to order Defendants to release the Security Deed, and to order Defendants “to return all legal tender used for ‘down payments’, deposits and any and all ‘payments’ made in connection with this transaction,” among other relief. *See* Complaint at pp. 6-8.

11. The recorded Security Deed, attached hereto as **Exhibit B**, reflects that the Property secures a loan in the amount of \$146,000. And based on the most recent DeKalb County tax assessment, attached hereto as **Exhibit C**, the value of the Property is \$206,000.

12. Accordingly, based on all the relief sought by Plaintiff, the amount in controversy exceeds the \$75,000.00 jurisdictional threshold. *See, e.g., Baker v.*

*Select Portfolio Servicing, Inc.*, No. 1:12-CV-03493-JEC, 2013 WL 4806907, at \*4 n.5 (N.D. Ga. Sept. 9, 2013) (finding the amount in controversy was satisfied based on a property's assessed value reflected in the county tax assessor's records).

### **CONCLUSION**

**WHEREFORE**, Defendants pray that this Court take jurisdiction of this action and issue all necessary orders and process to remove this action from the Superior Court of DeKalb County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division.

*/s/ Jennifer E. Ziemann*

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*Attorney for Defendants*

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## CERTIFICATE OF SERVICE

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I hereby certify that on August 25, 2023, I electronically filed this **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

None

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Cynthia Jo Goodman Estate  
P.O. Box 370354  
Decatur, Georgia 30037  
[doctorwithoutwalls@gmail.com](mailto:doctorwithoutwalls@gmail.com)

*/s/ Jennifer E. Ziemann*

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